



Lesson 6- 6: Labor Relations

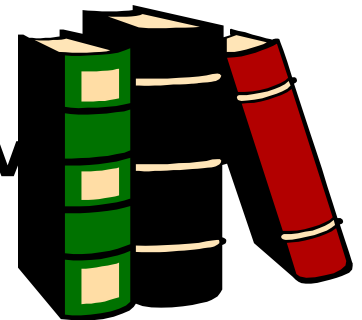
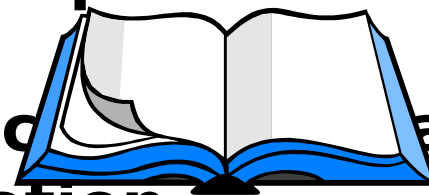




Learning Objectives

After completion of this lesson, participants will be able to:

- **Identify the rights and responsibilities of management, unions and employees under the LR statute**
- **Identify workplace matters that have collective bargaining implications**
- **Identify workplace disorders that require union coordination**





NSPS and Labor Relations

- At this time, operating under title 5 legacy rules – no different from GS
- The National Defense Authorization Act (NDAA) for Fiscal Year 2008 eliminated the NSPS regulations dealing with Labor-Management Relations



► NDAA for FY08 does include changes to labor relations



Legal Framework

- Federal Service Labor-Management Relations Statute - 5 USC 71
- Case Law - Federal Labor Relations Authority and Courts





Resources

- Supervisor's Guide on Labor Management Relations



(
http://www.cpms.osd.mil/faslerd/faslerd_index.aspx
- and click on Supervisor's Guide under Products and Services)

- CPAC Labor Relations Officer



What is a Bargaining Unit?

- A group of employees with common interests who are represented by a labor union in their dealings with Agency management





Excluded from the Bargaining Unit

- Most Federal employees are covered by the Labor Relations Statute.
- Excluded:
 - Supervisors
 - Management Officials
 - Confidential employees
 - Employees engaged in:
 - Personnel Work (non-clerical)
 - Work directly affecting national security
 - Administering the Federal Labor Relations Statute
 - Investigators directly affecting Agency internal security



Employee Rights

- ➔ Form, join or assist a labor organization or refrain from doing so without fear of penalty or reprisal.
- ➔ Act as a Union representative (Shop Steward, Local President, National Representative, etc).





Union Rights

- ➔ Represent all employees in the unit.
- ➔ Negotiate with the Agency.
- ➔ Be present at certain discussions.





Union Responsibilities

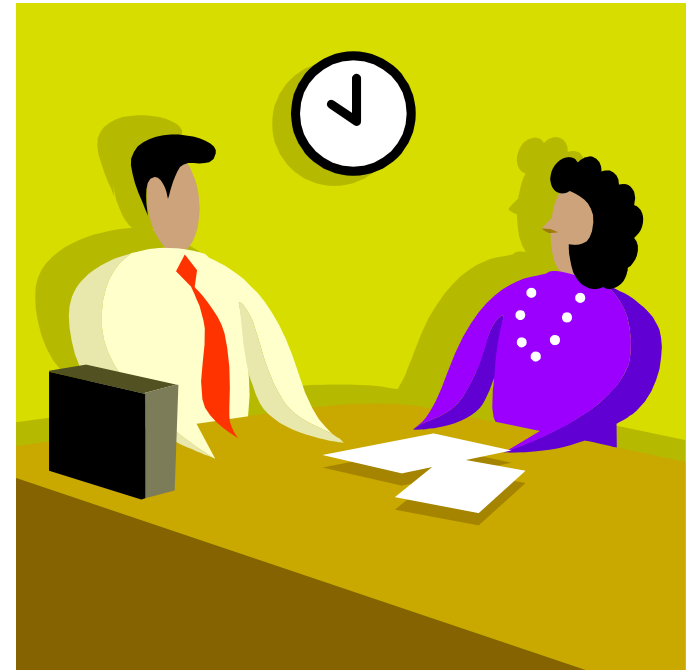
- Represent interests of all bargaining unit members, regardless of union membership.
- Negotiate with management in “good faith”.





Official Time

- Contract negotiations
- Representational duties
- Representing employees on grievances
- Federal Labor Relations Authority business





Management Rights

- To make basic management decisions
 - Mission, budget, organizations, security, emergencies
 - To take personnel actions
 - Hire, direct, layoff, and retain employees
 - Remove, reduce in grade or pay, take disciplinary actions
 - Assign work, contract out, promote
- (5 USC 7106(a))



Workplace Changes

Workplace changes that trigger management's obligation to bargain:

- Working conditions
- Personnel policies and practices
- Affecting bargaining unit employees
- Except policies...
 - *Provided for by statute*
 - *Relating to classification*
 - *Relating to political activities*



Workplace Changes (cont)

- Must notify Union – before implementation
- Communicate what changes are intended and when they would become effective
- If there is no response, implement on the specified date
- If the Union asks to negotiate, normally bargain to completion before affecting the proposed change



Past Practice

- Pertains to condition of employment (e.g., CDs at employee workstations)
- Unwritten
- Consistently practiced over extended period of time
- Known about and accepted by both parties

➤ *Note: Change in practice triggers bargaining obligation*



Workplace Changes

- Do not:
 - Assume that there is no obligation to notify the Union because you are exercising a management right.
 - Notify the Union at the last minute, without giving a reasonable amount of time to consider the change.
 - Implement before reaching agreement
 - Make changes without notification in hopes that the Union won't notice.



Formal Discussion

- One or more management official and one or more employee or representative; and
- Concerns a grievance or any personnel policy or practice or other general condition of employment -- not individual concerns:
 - Union must be invited
 - Union selects rep
 - Union allowed to comment during meeting
 - Cannot disrupt meeting
- Not normal shop talk



Formal Discussion (cont'd)

- DISCUSSION - Can be one-way
- FORMAL
 - First-level supervisor or higher level management
 - Location of meeting
 - Length of meeting
 - How meeting was called (spontaneously or scheduled in advance)
 - Written formal agenda
 - Mandatory attendance
 - Manner conducted (attendance & comments noted)



Investigative Discussions

(“WEINGARTEN” RIGHT)

- ◆ Not like Miranda right
 - * Check the labor agreement
- ◆ Union can participate in discussion
 - * Cannot answer for employee
- ◆ Not applicable to performance counseling or issuance of notice of discipline



Investigative Discussions

“WEINGARTEN” RIGHT (cont’d)

◆ Criteria:

- Employee reasonably believes discipline could result (not based on supervisor’s intent); and
- Employee requests representation.



Investigative Discussions

("WEINGARTEN" RIGHT cont'd)

- If the employee requests a representative, supervisor may:
 - Simply end the meeting and not call in a union rep;
 - Temporarily stop the meeting long enough to obtain union representation.
 - Offer the employee the alternative to continue w/o union representation or forgo having a meeting to make his/her points.
 - Remove the employee's "reasonable belief" by stating that the employee will not be disciplined.



EXERCISE TIME

Read each situation and decide if it is (a) a formal discussion; (b) a Weingarten examination; (c) neither; or (d) both. Be prepared to explain your answer.





1. A first line supervisor holds an impromptu meeting of bargaining unit employees to discuss shop safety procedures.
2. During a staff meeting where no union representative is present, a unit employee asks a supervisor how the new procedure for assigning overtime will be implemented. The supervisor explains the new procedure.
3. A supervisor arranges a meeting with a unit employee to counsel her on her performance. She requests union representation.



4. While investigating the cause of an accident in the laboratory, a supervisory chemist meets with individual unit members who were present. One requests union representation, two others do not.
5. A supervisor meets with a unit employee to find out why he is late for the third time in two weeks. Midway through the meeting, the employee requests union representation.



Unfair Labor Practices

Management

- Interfere with employee rights
- Encourage or discourage union membership
- Sponsor, control, or assist a union
- Discriminate against employees for participation in proceedings covered by the LR Statute



Unfair Labor Practices

Management

- Failure to negotiate in good faith
 - Unilateral change in Condition of Employment
 - Contract breach (repudiation)
 - Failure to negotiate Impact & Implementation
 - Refusal to furnish information
 - Bypassing the union



Unfair Labor Practice

Management

- Fail to cooperate in Federal Service Impasses Panel (FSIP) proceedings
- Enforce any regulation in conflict with a collective bargaining agreement if the agreement predates the regulation
- Fail to comply with any provision of the Labor Relations Statute



Unfair Labor Practices

Union

- Interfere with employees' rights
- Cause an agency to discriminate against employees
- Act against union members to impede performance or productivity
- Discriminate against employees because of race, sex, religion, etc.



Unfair Labor Practices

Union

- Fail to negotiate in good faith
- Fail to cooperate in Federal Service Impasses Panel (FSIP) proceedings
- Call or participate in a strike or fail to prevent or stop a strike
- Fail to comply with any provision of the Labor Relations Statute



Arbitration

- Any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration:
 - May be invoked by management or the union (not by the employee)
 - Binding on both parties
- Few procedural rules
- Decisions (awards) are not precedential





Arbitration (cont)

- Arbitrator may award compensatory damages
- Exceptions to award may be filed within 30 days
- The Federal Labor Relations Authority may modify an award
- Costs for arbitration based on Collective Bargaining Agreement



3rd Parties in Negotiation Disputes

- Federal Labor Relations Authority
--Resolves negotiability disputes
- Federal Mediation & Conciliation Service
--Mediates negotiation impasses
- Federal Service Impasses Panel
--Resolves negotiation impasses



Module 6-6 Review

Summary

- Provide examples of workplace changes that have collective bargaining implications
- Identify two workplace discussions or situations that require union notification